



APPLICATION ACCEPTED: January 8, 2013
BOARD OF ZONING APPEALS: April 17, 2013
ADMINISTRATIVELY MOVED FOR NOTICES
TIME: 9:00 a.m.

County of Fairfax, Virginia

April 10, 2013

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2013-LE-005

LEE DISTRICT

APPLICANTS/OWNERS: Saira F. Ali
Farhan A. Ali

SUBDIVISION: Guilford

STREET ADDRESS: 6232 Park Terrace, Alexandria, 22310

TAX MAP REFERENCE: 81-4 ((5)) 39A

LOT SIZE: 19,654 square feet

ZONING DISTRICT: R-3

ZONING ORDINANCE PROVISIONS: 8-914, 8-918, 8-923

SPECIAL PERMIT PROPOSAL: To permit reduction in minimum yard requirements based on error in building location to permit an accessory structure to remain 4.9 feet from the side lot line, to permit an accessory dwelling unit within an existing dwelling and to permit an existing fence greater than 4.0 ft. in height to remain in the front yard.

STAFF RECOMMENDATION: Staff recommends approval of SP 2013-LE-005 for an accessory dwelling unit, subject to the proposed development conditions contained in Appendix 1.

O:\mstahl\Special Permits\4-17) SP 2013-LE-005 Ali (ADU, Error)\SP 2013-LE-005 Ali staff report.doc

Michelle Stahlhut

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

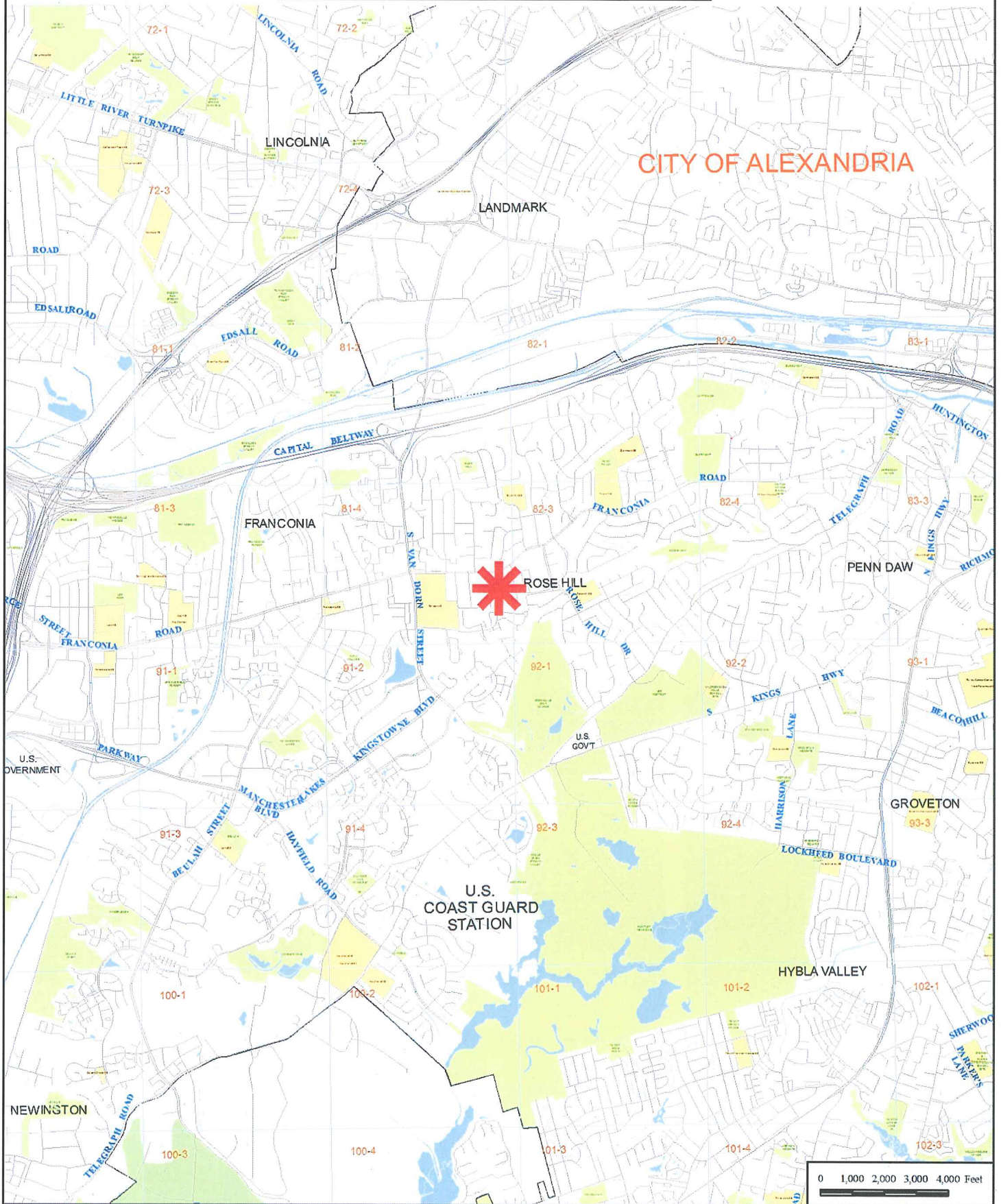
The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**

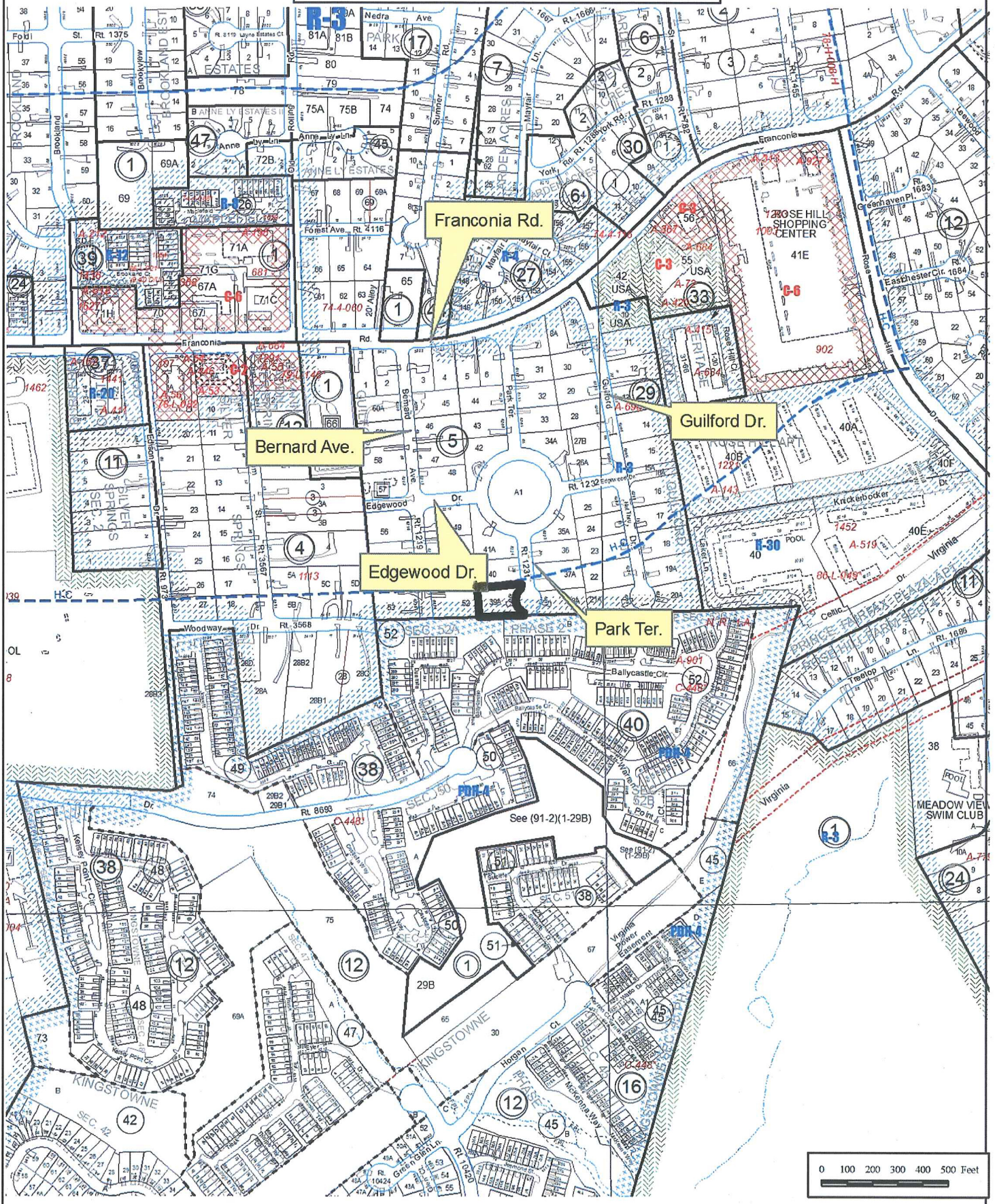


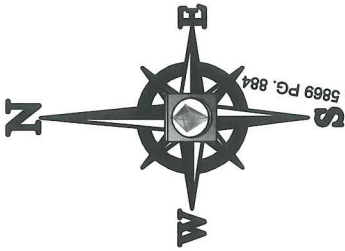
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit
SP 2013-LE-005
SAIRA AND FARHAN ALI



Special Permit
SP 2013-LE-005
SAIRA AND FARHAN ALI





NOTES:

1. TAX MAP 0814-05-0039A

2. THE PROPERTY SHOWN HEREON IS ZONED R-3 (RESIDENTIAL 3 DU/AC)

3. MINIMUM YARD REQUIREMENTS IN ZONE R-3

FRONT: 30'

SIDE: 12'

REAR: 25'

4. THE PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.

5. THE PROPERTY IS LOCATED IN ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) PER FLOOD INSURANCE RATE MAP FAIRFAX COUNTY, VIRGINIA, COMMUNITY PANEL NUMBER 5155250295E EFFECTIVE DATE, SEPTEMBER, SEPTEMBER 17, 2010.

6. THERE ARE NO VISIBLE GRAVE SITES OR CEMETERIES FOUND WITHIN THE BOUNDARY OF THE SUBJECT PROPERTY.

7. FLOOR AREA:

EXISTING GROSS FLOOR AREA HOUSE 1,652 S.F.
EXISTING FLOOR AREA RATIO 0.08

SPECIAL PERMIT PLAT

LOT 39A

SECTION TWO, GUIFORD

DEED BOOK 5869 PAGE 884

LEE MAGISTERIAL DISTRICT

FAIRFAX COUNTY, VIRGINIA

SCALE: 1"=30' DATE: APRIL 9, 2012

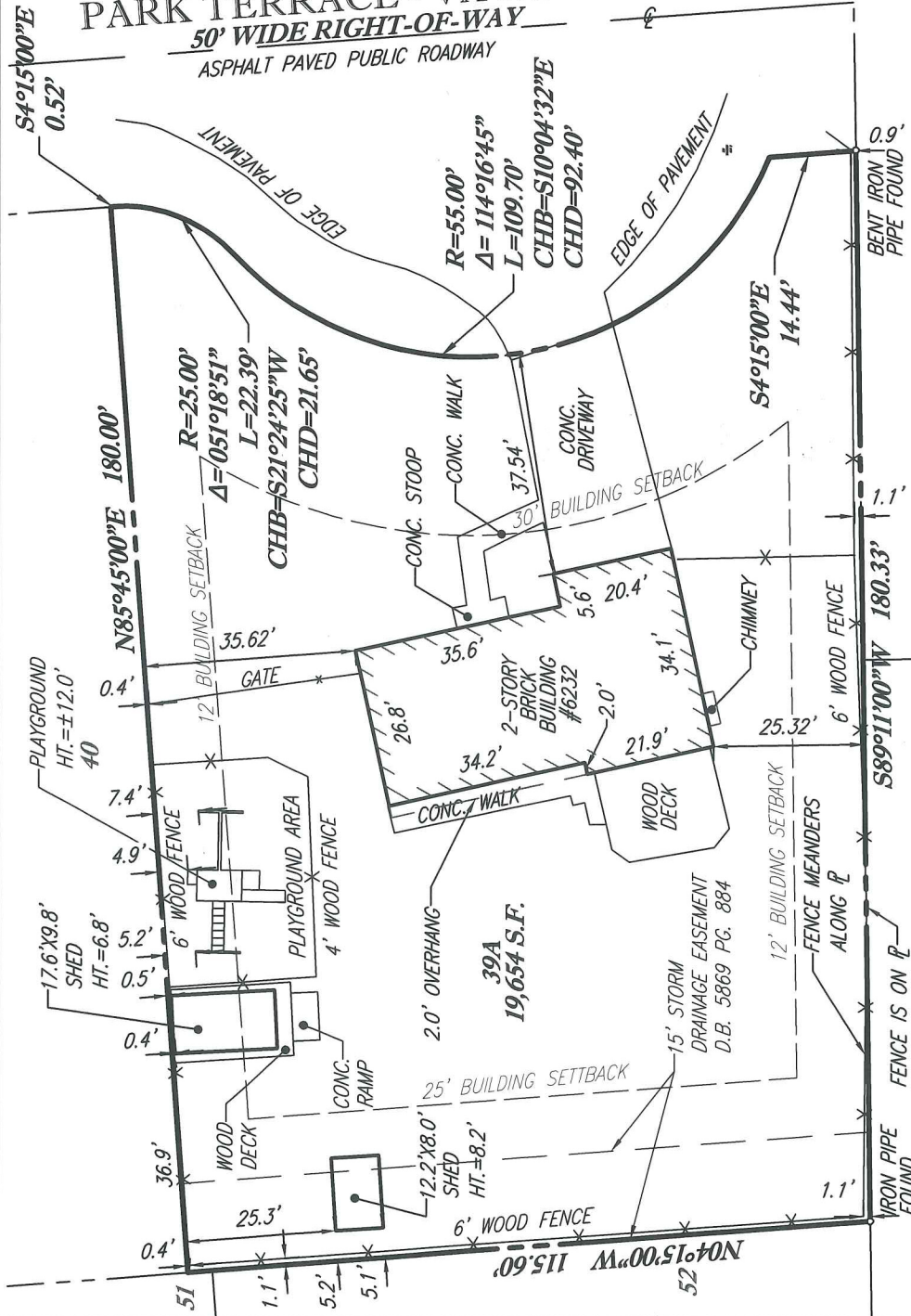
REVISED: JUNE 06, 2012

REVISED: JUNE 14, 2012

REVISED: DECEMBER 17, 2012

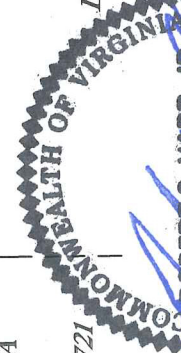
REVISED: JANUARY 9, 2013

PARK TERRACE - VA RTE. 1231
50' WIDE RIGHT-OF-WAY
ASPHALT PAVED PUBLIC ROADWAY



PARCEL B, SECTION 52A
PHASE 2
KINGSTOWNE
DEED BOOK 9523 PAGE 1875

PARCEL A, SECTION 52A
PHASE 1
KINGSTOWNE
DEED BOOK 9269 PAGE 721



ROBERT C. HARR, JR.
VIRGINIA LICENSED LAND SURVEYOR NO. 3111

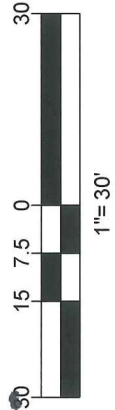
DATE 1-9-13

HEIGHT TABLE

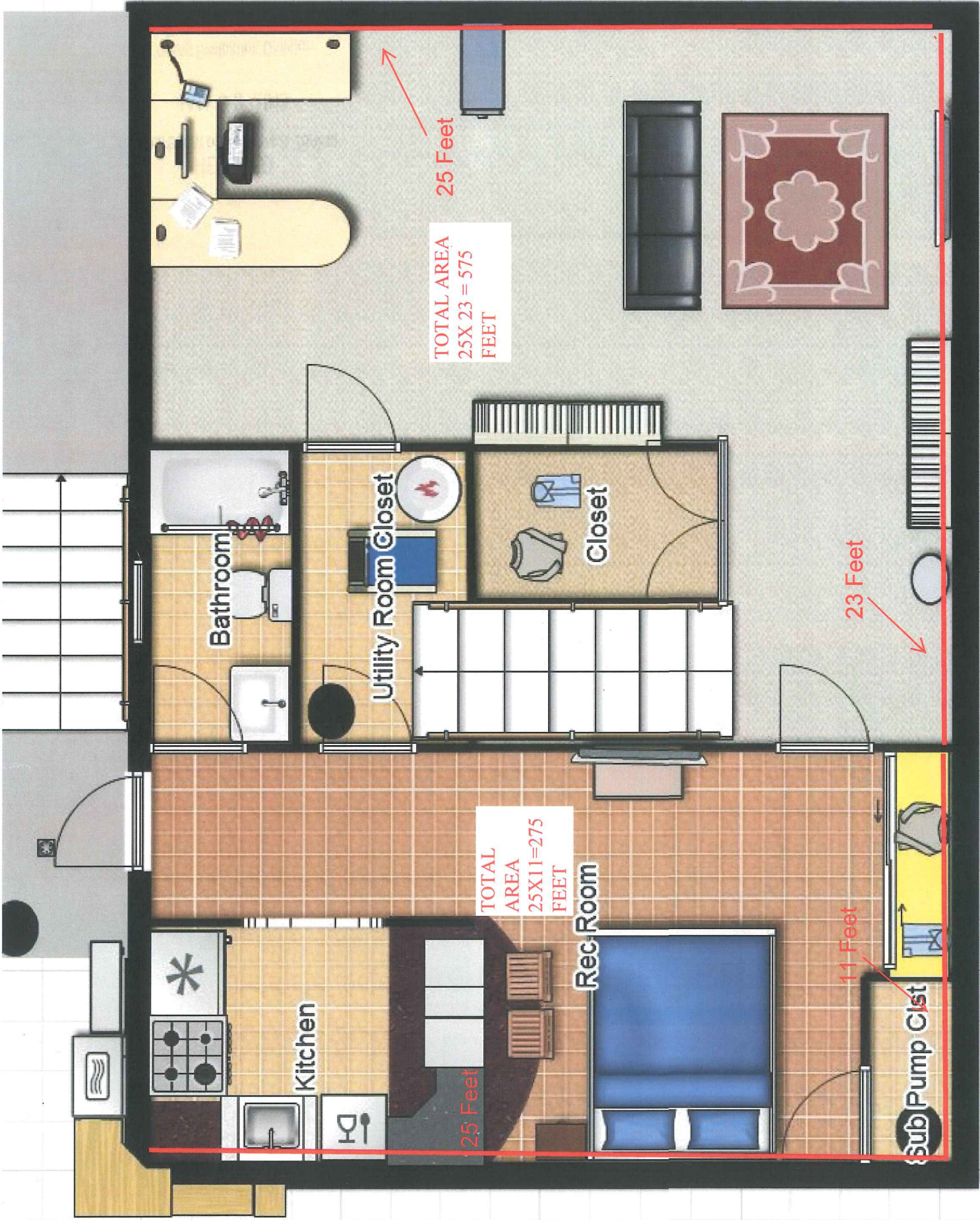
HEIGHT OF HOUSE: 24.2'

BOHLER
ENGINEERING

22630 DAVIS DRIVE, SUITE 200
STERLING, VIRGINIA 20164
703.709.9500 - 703.709.9501 FAX
www.bohlerengineering.com



NEW JERSEY ■ PENNSYLVANIA ■ NEW YORK ■ VIRGINIA ■ MASSACHUSETTS ■ MARYLAND ■ FLORIDA



TOTAL AREA
25X23 = 575
FEET

TOTAL
AREA
25X11 = 275
FEET

Bathroom

Utility Room Closet

Closet

Rec Room

Kitchen

Sub Pump Cist

25 Feet

25 Feet

23 Feet

11 Feet



CUL-DE-SAC AND THE PROPERTY ACROSS 6232 PARK TERRACE



6232 PARK TERRACE, ALEXANDRIA, VA 22310



6232 PARK TERRACE, ALEXANDRIA, VA 22310 - BACK YARD





STAIRS IN THE BASEMENT - GOING TO THE MAIN LEVEL





BASEMENT'S - BEDROOM/STUDIO



BASEMENT'S KITCHEN

BATHROOM IN THE BASEMENT



DOOR FROM THE BASEMENT TO OUTSIDE



DESCRIPTION OF THE APPLICATIONS

The applicants are requesting approval of three special permits. The first is for approval of an accessory structure, 12 foot tall play equipment, to remain 4.9 feet from the northern side lot line.

	Structure	Yard	Min. Yard Req.	Structure Location	Amount of Error	Percent of Error
Special Permit #1	Play Structure	Side	12.0 feet	4.9 feet	7.1 feet	59%

The second request is to permit an accessory dwelling unit to remain in the existing dwelling. This use is described in more detail on Page 3.

The last request is to permit an existing fence greater than 4.0 feet in height to remain in the front yard. The wood privacy fence is 6.0 feet in height and extends the entire length of the lot for approximately 180 feet along the southern lot line, including 30 feet in the front yard. The fence is located along a wooded alley that leads to Edison High School. The Zoning Ordinance currently permits fences 4.0 feet in height by-right; however, through a special permit, an applicant can request a fence in the front yard up to 6.0 feet in height.

	Structure	Yard	Permitted Height	Max. Height Requested	Modification Requested
Special Permit #3	Fence	Front	4.0 feet	6.0 feet	2.0 feet

LOCATION AND CHARACTER OF THE AREA

The application property is located at 6232 Park Terrace, on a cul-de-sac located within the Guilford subdivision. The 19,654 square foot site is developed with a single-family detached two-story dwelling with cellar and two-car garage, a rear deck, two sheds and a playground structure in the rear yard. The existing concrete driveway is accessed from Park Terrace and can contain four parked vehicles for a total of 6 parking on-site parking spaces.

Surrounding Area Description

Direction	Use	Zoning
North	Single Family Detached Dwellings	R-3
South	Homeowner Association Open Space; Footpath to Edison High School	PDH-4
East	Single Family Detached Dwellings	R-3
West	Single Family Detached Dwellings	R-3

BACKGROUND

The construction of the single-family dwelling was completed in 1984. Building permit records show that the basement was finished in 1995. According to the current property owner and input from neighbors, the deck was added to the back of the house and the fence was extended to the front of the property sometime between 1984 and 1994. According to Fairfax County Tax Records, the applicants purchased the property in January 2005.

On March 5, 2012, a Notice of Violation (NOV) was issued to the owners for Zoning Code Section 2-501, Limitation on the Number of Dwelling Units on a Lot. A copy of the NOV is attached as Appendix 4.

According to the applicant, the accessory dwelling unit was built in 2012. The space was rented out briefly to two different tenants, but is currently unoccupied. The property owners intend to use the accessory dwelling unit for their parents, who are both over the age of 55.

Records indicate there have been no other applications for accessory dwelling units in the vicinity of the application site heard by the BZA. An 8.2 foot tall shed is located partially within a storm drainage easement along the rear lot line. The Stormwater Division of the Department of Public Works and Environmental Services is currently reviewing the plat to determine if the shed can remain in the easement.

ANALYSIS

Special Permit Plat (Copy at front of staff report)

Title of SP Plat: Special Permit Plat, Lot 39A, Section Two, Guiford

Prepared By: Bohler Engineering

Dated: April 9, 2012, revised through January 9, 2013

Proposed Use

The applicant proposes an accessory dwelling unit to be located within the basement of the existing single family detached dwelling. The applicants reside in the single-family dwelling and the applicant's parents, both over 55 years of age, will live in the basement.

The two-story principal dwelling consists of approximately 2,674 square feet, and the proposed accessory dwelling unit is 275 square feet, or 10.28% of the gross floor area. As shown on the floor plan at the front of the staff report, the accessory dwelling unit is accessed through an exterior door and stairs, as well as through a door in the cellar. The accessory dwelling unit is a studio consisting of a living area/bedroom, a small closet, a full kitchen, a full bathroom and a shared utility room closet.



The rest of the cellar consists of an office/living area which is used by the applicant and therefore not included in the overall calculation for the accessory dwelling unit.

Adequate parking for both the primary residence and the accessory dwelling unit exists in the current driveway. The site can accommodate up to six vehicles, four within the driveway space and two within the enclosed garage space. There are no proposed site modifications with this application.

ZONING ORDINANCE PROVISIONS

The existing single family dwelling with accessory dwelling unit on site currently meets all bulk regulations for the R-3 Zoning District.

OTHER ZONING ORDINANCE REQUIREMENTS

Special Permit Requirements (See Appendix 5)

- General Special Permit Standards (Sect. 8-006)
- Group Standards for All Group 9 Uses (Sect. 8-903)
- Additional Standards for Accessory Dwelling Units (Sect. 8-918)

Summary of Zoning Ordinance Provisions

This special permit is subject to Sects. 8-006, 8-903 and 8-918 of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 5. Subject to development conditions, the special permit must meet these standards.

CONCLUSIONS AND RECOMMENDATIONS

Staff believes that all applicable standards for the accessory dwelling unit as outlined in Sects. 8-006, 8-903 and 8-918 will be satisfied with adoption of the proposed development conditions. Staff recommends approval of SP 2013-LE-005 subject to the Proposed Development Conditions contained in Appendix 1 of this staff report.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification and Attachments
4. Notice of Violation dated March 6, 2012
5. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2013-LE-005****April 10, 2013**

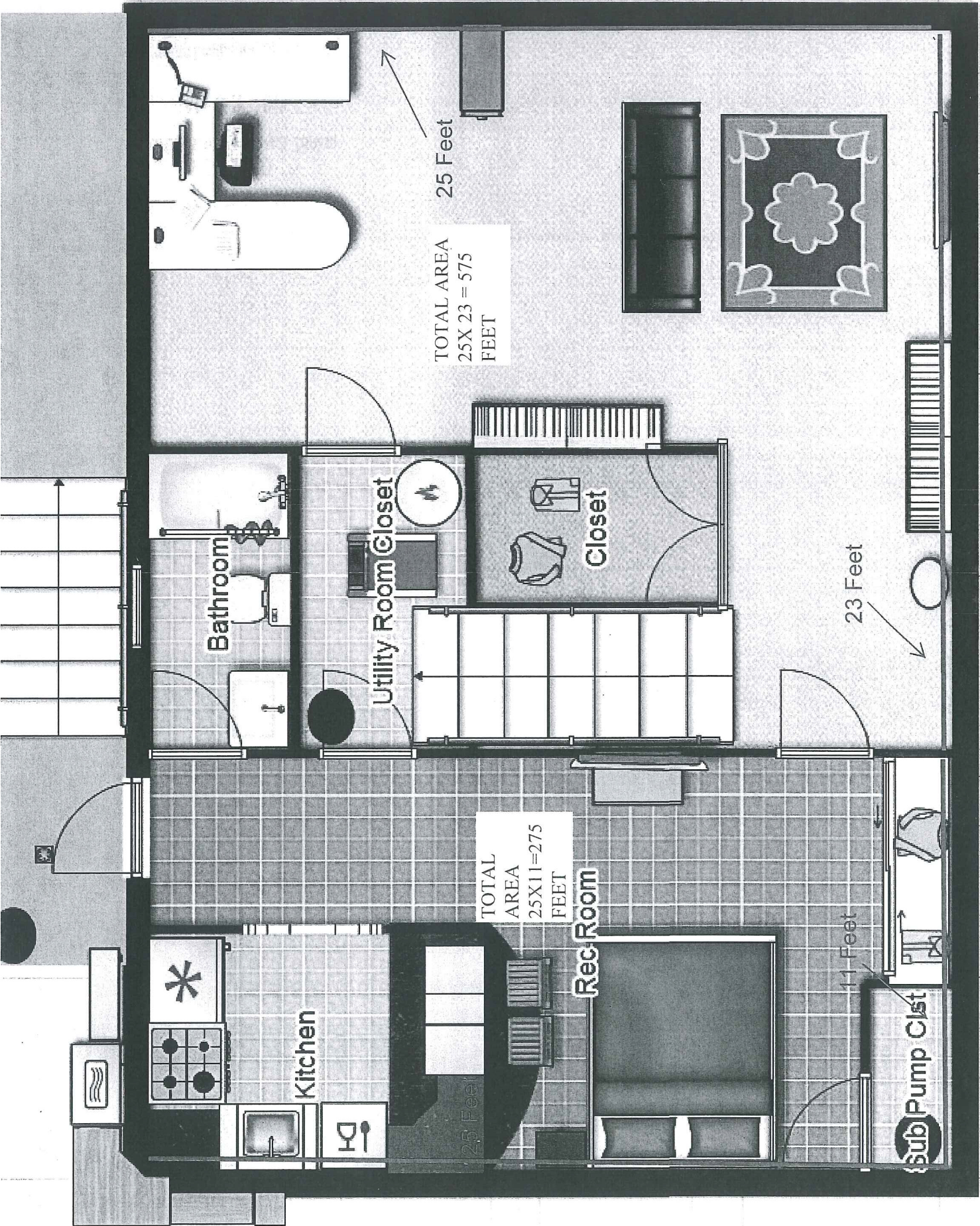
If it is the intent of the Board of Zoning Appeals to approve SP 2013-LE-005 located at Tax Map 81-4 ((5)) 39A to permit an accessory structure, accessory dwelling unit fence under Sections 8-914, 8-918 and 8-923 to the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the kitchen. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicants only, Saira F. Ali and/or Farhan A. Ali, and is not transferable without further action of this Board, and is for the location indicated on the application, 6232 Park Terrace (0.45 acres) and is not transferable to other land.
3. This special permit is approved for the location of the accessory structure (play equipment), the accessory dwelling unit and the fence in the front yard as shown on the special permit plat.
4. A copy of this special permit **SHALL BE POSTED in a conspicuous place in the accessory dwelling unit** and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
5. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.
6. The accessory dwelling unit shall contain a maximum of 275 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
7. All applicable building permits and final inspections shall be obtained for kitchen in the accessory dwelling unit.
8. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.

9. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
10. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory unit shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
11. All parking shall be provided on site as shown on the special permit plat.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, twelve (12) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required



Application No(s): SP 2013-LE-005
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 5/7/12
 (enter date affidavit is notarized)

I, Saira F. Ali, do hereby state that I am an
 (enter name of applicant or authorized agent)

(check one) ☒ applicant
☐ applicant's authorized agent listed in Par. 1(a) below

115832

and that, to the best of my knowledge and belief, the following is true:

- 1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS**, and **LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE**,** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Saira F. Ali	6232 Park Terrace Alexandria, VA 22310	Applicant/Title Owner
Farhan A. Ali	(Same as Above)	Applicant/Title Owner

(check if applicable) ☐ There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No(s):

SP 2013-LE-005
(county-assigned application number(s), to be entered by County Staff)

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE:

5/7/12
(enter date affidavit is notarized)

115832

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

N/A

DESCRIPTION OF CORPORATION: (check one statement)

- ☐ There are 10 or less shareholders, and all of the shareholders are listed below.
- ☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- ☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SP 2013-LE-005
(county-assigned application number(s), to be entered by County Staff)

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 5/7/12
(enter date affidavit is notarized)

115832

1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

N/A

(check if applicable) ☐ The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): SP 2013-LE-605
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 5/7/12
(enter date affidavit is notarized)

115832

1(d). One of the following boxes **must** be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (**NOTE:** If answer is none, enter "**NONE**" on the line below.)

NONE

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s):

SP 2013-LE-005

(county-assigned application number(s), to be entered by County Staff)

Page Five

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE:

5/17/12

(enter date affidavit is notarized)

115832

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

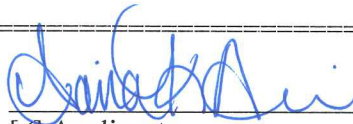
NONE

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) ☐ There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:



(check one)

☒ Applicant

☐ Applicant's Authorized Agent

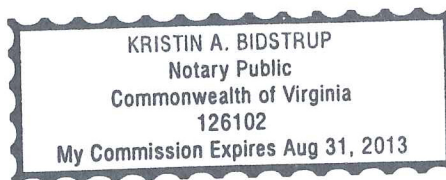
Saira F. Ali

(type or print first name, middle initial, last name, and title of signer)

Subscribed and sworn to before me this 7 day of May, 20 12, in the State/Comm. of VIRGINIA, County/City of FAIRFAX.

My commission expires: 8/31/2013


Notary Public
KRISTIN A. BIDSTRUP



SAIRA F. ALI
6232 PARK TERRACE, ALEXANDRIA, VA 22310
HOME (703) 822-0528 ◊ CELLULAR (703) 314-0630

RECEIVED
Department of Planning & Zoning
APR 13 2012
Zoning Evaluation Division

April 12, 2012

TO: County of Fairfax

SUBJECT: Statement of Justification

As part of the application process for a Special Permit for an Accessory Dwelling Unit at the above noted property address, and in accordance with the Fairfax County Ordinance #8-918, we'd like to address all 13 conditions/items as follows:

- 1) We resided in a single family dwelling unit and are requesting that you allow us to keep our accessory dwelling unit in the basement of our single family home.
- 2) The accessory dwelling unit is in our basement and is located within our single family dwelling unit. There is an external separate entrance to this basement from the back of our house.
- 3) The gross floor area of our house is 2,212 SF, plus an additional gross floor area of the garage is 462 SF, which is a TOTAL Gross Floor Area of House (NOT including the accessory dwelling area) at 2,674 SF. This would allow 935 SF to place the accessory dwelling unit for our parents.
- 4) Our accessory dwelling unit will only have one bedroom.
- 5) The occupancy of our accessory dwelling unit shall be as follows:
 - a. The main dwelling unit shall be occupied by Farhan and Sair Ali (the owner's of this property) and our three children.
 - b. The accessory dwelling until that we have in our basement is occupied by Farhan Ali's parents, Mr. & Mrs. Irfan Ali.
 - i. Mr. & Mrs. Irfan Ali are elderly (Ages) and they are currently in good health and not disabled.
 - c. The accessory dwelling unit will be occupied by only these 2 elderly parent who are related by blood to Farhan.
- 6) N/A
- 7) Parking should not be a problem. We currently have a 2 car garage and a driveway that can easily accommodate 4 vehicles, and should we need to park additional vehicles there is ample curbside in the cul-de-sac for parking. Farhan's parents only have one car.
- 8) Our accessory dwelling unit only changed the interior of our basement and allows Farhan's parents to live comfortably. This does not in any way disrupt the predominant character of the neighborhood.

RECEIVED
Department of Planning & Zoning
APR 13 2012
Zoning Evaluation Division

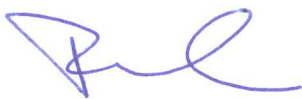
- 9) We will insure that all requirements are met.
- 10) We understand that if approved, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County. A copy of the BZA's approval, including all accompanying conditions.
- 11) Farhan Ali and Saira Ali, as owners of this property will allow inspections of the property by County personnel during reasonable hours and prior notice.
- 12) We also understand that Special Permit for accessory dwelling units are approved for a period not to exceed five (5) years from the date of approval, and that such special permits may be extended for succeeding five (5) year periods in accordance with Fairfax ZBA.
- 13) N/A

In summary, we would like to retain the second dwelling for Farhan's elderly parents (Irfan Ali and Shamim Ali). Farhan's parents lived with us from time-to-time, but recently Farhan's father lost his job they moved in with us permanently. By permitting us to keep the accessory dwelling it will allow us to have some privacy, give our parents their own space and help them make this place home. We want them to be able to live in our house as if this was their own without any interference.

We will take all the necessary steps to get all the appropriate approvals and permits.

Your help with this would be greatly appreciated and we are willing to do whatever is necessary to make this right. Please feel free to contact me with any questions.

Sincerely,



Farhan A. Ali

and



Saira F. Ali



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF VIOLATION

DATE OF ISSUANCE: March 06, 2012

SHERIFF'S LETTER

CASE #: 201200611 **SR#:** 79994

SERVE: Farhan A. Ali
Saira Farrooq Ali
6232 Park Terrace
Alexandria, Virginia 22310

**LOCATION
OF VIOLATION** 6232 Park Terrace
Alexandria, Virginia 22310-2729
Guilford, Section 2, Lot 39A
Tax Map #: 81-4 ((5)) 39A
Zoning District: R-3

Dear Property Owners:

An inspection of the above referenced property on February 28, 2012 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 2-501 Limitation on the Number of Dwelling Units on a Lot:

The inspection revealed there are two (2) complete and separate dwellings in this single family dwelling unit on the above-referenced property. Part 3 of Article 20 of the Zoning Ordinance defines a dwelling unit as:

One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use as a complete, independent living facility which includes permanent provisions for living, sleeping, eating, cooking and sanitation. Occupancy shall be in accordance with the provisions of Sect. 2-502.

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

Therefore, the presence of more than one dwelling unit on the above-referenced property is in violation of Sect. 2-501 of the Zoning Ordinance which states, in part:

There shall be not more than one (1) dwelling unit on any one (1) lot, nor shall a dwelling unit be located on the same lot with any other principal building....

You are hereby directed to clear this violation within thirty (30) days of the date of this notice. Compliance can be achieved as follows:

- Removing, on a permanent basis, all interior door locks that prevent the free and unfettered access to all common living areas or which may separate different levels of the structure; and
- Removing, on a permanent basis, all but one kitchen located in the dwelling to include: the ovens, microwave, ranges, sinks, cabinets, countertops, refrigerators, and freezers or combinations thereof; all other appliances and accoutrements used or intended for use for cooking or eating, and all plumbing, electrical, and gas connections and piping; and
- Applying for and obtaining approval from the Fairfax County Building Official (12055 Government Center Parkway, Second Floor, Permit Application Center) for a valid demolition permit for the removal of all electrical circuits, plumbing fixtures and piping and natural gas piping systems which were installed to establish the second kitchen in the dwelling unit at this property, and obtaining a passing final inspection of such demolition work; and
- Ceasing, on a permanent basis, the use of all but one (1) dwelling unit, on the property, and restoring the structure such that it contains no more than one (1) dwelling unit.

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance which can result in court ordered sanctions.

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Farhan A. Ali
Saira Farrooq Ali
March 06, 2012
Page 3

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-4375 or (703) 324-1300.

Sincerely,

Al Sanchez
Code Compliance Investigator

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards For All Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

**8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements
Based on Error in Building Location**

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
 - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of well and/or septic field.
 - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.

- J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
- K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

- 2. The BZA determines that:
 - A. The error exceeds ten (10) percent of the measurement involved, and
 - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and
 - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
- 3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.

4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

8-918

Additional Standards for Accessory Dwelling Units

As established by the Fairfax County Board of Supervisors' Policy on Accessory Dwelling Units (Appendix 5), the BZA may approve a special permit for the establishment of an accessory dwelling unit with a single family detached dwelling unit but only in accordance with the following conditions:

1. Accessory dwelling units shall only be permitted in association with a single family detached dwelling unit and there shall be no more than one accessory dwelling unit per single family detached dwelling unit.
2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any added external entrances for the accessory dwelling unit shall be located on the side or rear of the structure.
On lots two (2) acres or greater in area, an accessory dwelling unit may be located within the structure of a single family detached dwelling unit or within a freestanding accessory structure.
3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor area of the accessory freestanding structure and the principal dwelling unit.
4. The accessory dwelling unit shall contain not more than two (2) bedrooms.
5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:
 - A. One of the dwelling units shall be owner occupied.
 - B. One of the dwelling units shall be occupied by a person or persons who qualify as elderly and/or disabled as specified below:
 - (1) Any person fifty-five (55) years of age or over and/or
 - (2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be

accompanied by a certification by the Social Security Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration signed by two (2) medical doctors licensed to practice medicine, to the effect that such person is permanently and totally disabled. The written statement of at least one of the doctors shall be based upon a physical examination of the person by the doctor. One of the doctors may submit a written statement based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability.

For purposes of this Section, a person shall be considered permanently and totally disabled if such person is certified as required by this Section as unable to engage in any substantial gainful activity by reasons of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person's life.

- C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:
 - (1) One (1) family, which consists of one (1) person or two (2) or more persons related by blood or marriage and with any number of natural children, foster children, step children or adopted children.
 - (2) A group of not more than four (4) persons not necessarily related by blood or marriage.
- 6. Any accessory dwelling unit established for occupancy by a disabled person shall provide for reasonable access and mobility as required for the disabled person. The measures for reasonable access and mobility shall be specified in the application for special permit. Generally, reasonable access and mobility for physically disabled persons shall include:
 - A. Uninterrupted access to one (1) entrance; and
 - B. Accessibility and usability of one (1) toilet room.

7. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient to meet the needs of the principal and accessory dwelling units. If it is determined that such parking is insufficient, the BZA may require the provision of one (1) or more off-street parking spaces. Such parking shall be in addition to the requirements specified in Article 11 for a single family dwelling unit.
8. The BZA shall determine that the proposed accessory dwelling unit together with any other accessory dwelling unit(s) within the area will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood. In no instance shall the approval of a special permit for an accessory dwelling unit be deemed a subdivision of the principal dwelling unit or lot.
9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
10. Upon the approval of a special permit, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the Grantor Index in the name of the property owners.
11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.
12. Special permits for accessory dwelling units shall be approved for a period not to exceed five (5) years from the date of approval; provided, however, that such special permits may be extended for succeeding five (5) year periods in accordance with the provisions of Sect. 012 above.
13. Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.

8-923 *Provisions for Increase in Fence and/or Wall Height in Any Front Yard*

The BZA may approve a special permit to allow an increase in fence and/or wall height in any front yard subject to all of the following:

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3l of Sect. 10-104.
2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.
3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.
4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.
5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.
6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.
7. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.

- B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. The location, dimension and height of any building or structure, to include existing or proposed fences and/or walls.
 - E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of a well and/or septic field.
 - I. If applicable, existing gross floor area and floor area ratio.
 - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
 - K. The location, type and height of any existing and proposed landscaping and screening.
 - L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.
 - M. Seal and signature of professional person certifying the plat.
8. Architectural depictions of the proposed fence and/or wall to include height, building materials and any associated landscaping shall be provided.